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MAR 01 2006

In re Application of : DECISION ON PETITION  
Yuji TOCHIO :  
Application No. 10/015,616 :  
Filed: December 17, 2001 :  
Attorney Docket No. 1344.1080 :

This is a decision on the petition filed January 13, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A Final Office action was mailed on April 22, 2003, setting a three-month period of response. An Advisory Office action was mailed September 22, 2003 stating that the period for response expires three months from the date the Final Office action was mailed.

Petitioner asserts that a Notice of Appeal, a Petition for Two-Month Extension of Time and a check for payment of fees was filed on October 22, 2003. This is evidenced by copies of the Notice of Appeal and the Petition for Two-Month Extension of Time and the date stamped postcard receipt indicating receipt in the U.S. Patent and Trademark Office (USPTO). Further, Petitioner asserts that a Petition for One-Month Extension of Time was filed along with the paper entitled "Response filed under 37 C.F.R. § 1.116" on August 19, 2003. Moreover, Petitioner asserts that a Request for Continued Examination (RCE) together with an Amendment was timely filed on December 22, 2003 as evidenced by copies of the request for a RCE, Amendment and the postcard receipt indicating receipt of the RCE and Amendment in the USPTO.

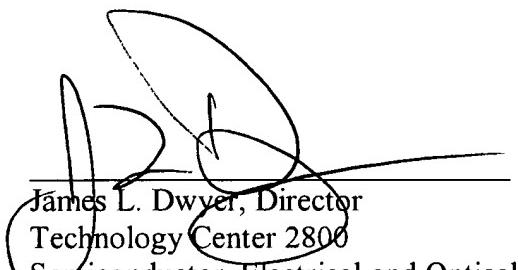
A review of the application file reveals that the Advisory Office action should have stated that the period for response expires four months from the date the Final Office action was mailed. Applicant had timely filed a Petition for One-Month Extension of Time and paid the requisite fee.

The application file also reveals that the Notice of Appeal, the Petition for Two-Month Extension of Time, the RCE, the Amendment and fees were received in the USPTO as indicated on the

stamped postcard receipts. However, the above identified papers were not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the Notice of Appeal, the Petition for Two-Month Extension of Time, the RCE and the Amendment in response to the Final Office action of April 22, 2003. From there, it will be returned to the examiner for further prosecution.



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